



**STATE OF NEVADA**  
**COMMISSION ON ETHICS**  
<http://ethics.nv.gov>

**Friday, September 21, 2007**  
**9:30 a.m.**

**Legislative Counsel Bureau**  
**401 S. Carson Street, Room 3138**  
**Carson City, NV 89701**

**MINUTES**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.  
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,  
is available for inspection at the Commission offices in Carson City and Las Vegas.

**Commission Members Present:**

Jim Kosinski, Esq., Chairman; Mark Hutchison, Esq., Vice Chairman;  
Timothy Cashman; Randall Capurro; William Flangas;  
Caren Jenkins, Esq.; Rick Hsu, Esq.; George Keele, Esq.

**Commission on Ethics Staff Present:**

Adriana G. Fralick, Esq., General Counsel  
Emily H. Nunez, Office Manager  
Matt Di Orio, Senior Investigator

**Others Present:**

Candidates for consideration of the position of Executive Director:  
Patty Cafferata, Tami DeVries, and Barry Marsh

Chairman Kosinski called the meeting to order at 9:40 a.m., Friday, September 21, 2007.

Agenda Item 1 – Open session for presentation by staff to describe their understanding of the daily/weekly job duties of an Executive Director

Chairman Kosinski opened the agenda item and welcomed staff to provide a brief presentation to the Commission. Staff presented what they felt was the most important job duties of the executive director; and how daily duties are carried out as they relate to their particular position. No other action was taken and the agenda item was closed.

Agenda Item 2 – Open session for discussion and possible action regarding the chain-of-command for Commission Counsel

Chairman Kosinski opened the agenda item, and asked Ms. Fralick to provide a brief summary about this item. Ms. Fralick provided Commissioners with history about the counsel position, including how it was created and structured. Ms. Fralick also provided input as to how she envisions the position of counsel in relationship to the executive director position.

Chairman Kosinski stated that he is aware there had been a difference of opinion with regard to the current policy of the Commission, which has the legal counsel reporting at least in part to the executive director. Specifically, Chairman Kosinski stated that Commissioner Hsu had come to the conclusion that the legal counsel for the commission at that time, should have some supervision, and therefore, the Commission had instituted this policy. He further stated that he is not comfortable with the policy, and would like to see the commission counsel reporting directly to the commission, with no administrative duties or powers being in the executive director over the legal counsel.

Commissioner Hsu clarified for the record that there was never an actual policy per se. He stated that he views the executive director position as equivalent to a CEO who runs the day-to-day operations of the organization. The counsel has to take direction with respect to legal services that are requested from the organization, and that includes the executive director for the most part. He further stated that the counsel has the duty to the organization and to act in the organization's best interests, including contacting commissioners individually on legal issues if necessary. On the other hand, Commissioner Hsu said that the day-to-day activities may include legal work as well, which will require direction to be given to counsel by the executive director. Although he understands Ms. Fralick's concerns, Commissioner Hsu stated that he does not agree that the executive director should not be directing legal counsel to do legal work.

Chairman Kosinski stated that if the executive director had a problem with legal counsel, they could bring their concerns to the full commission for resolution, rather than have the executive director try to influence the legal opinions of counsel. After further discussions on the matter, Commissioner Jenkins moved that the Nevada Commission on Ethics executive director and commission counsel be seen as parallel positions; however, with the executive director having the administrative responsibility that is related to that role, such as assigning timesheets, reporting time off to the administrative arm of government, arranging scheduling and so forth for vacations. The commission counsel would be subordinate to the executive director only for

those administrative type purposes. Commissioner Keele seconded the motion. The motion was put to a vote and passed 7-1. Commissioner Cashman opposed.

#### Agenda Item 3 – Open session to interview candidates for the position of the Executive Director

Chairman Kosinski opened the agenda item. Commissioner Jenkins made a disclosure that one of the applicants is employed by Jenkins Law Office as an independent contractor. Therefore she stated that, she would not be participating in this deliberation due to the appearance of impropriety and her commitment in a private capacity to the profits of Jenkins Law Office.

The candidates were interviewed in the following order: Patricia D. Cafferata, Barry Marsh, and Tami DeVries. After the three candidate interviews, each Commissioner then provided his impressions of the three individuals. Commissioner Hsu moved that Patty Cafferata be offered the position of Executive Director. Commissioner Keele seconded the motion. The motion was put to a vote and passed five to two, with Chairman Kosinski and Commissioner Flangas voting no.

Chairman Kosinski offered the position of Executive Director to Ms. Cafferata. Ms. Cafferata accepted the position. The agenda item was closed, and a recess was taken.

#### Agenda Item 4 – Open session to approve the minutes of the September 7, 2007, Subcommittee meetings

Chairman Kosinski opened this agenda item. Commissioner Keele moved approval of the September 7, 2007, 3:00 p.m., minutes. Chairman Kosinski seconded the motion. The motion was put to a vote and passed.

Commissioner Cashman moved approval of the September 7, 2007, 2:00 p.m., minutes. Commissioner Flangas seconded the motion. The motion was put to a vote and passed.

Chairman Kosinski closed the agenda item.

#### Agenda Item 5 – Open session for discussion and possible action regarding status of the ethics manual

Chairman Kosinski opened this agenda item. Tami DeVries presented a draft on what she envisions the ethics manual to contain. Commissioners provided Ms. DeVries with their recommendations, which include the following items:

- that the table of contents be user-friendly and not contain too many NRS and NAC cites
- that links to the Commission's web site be provided
- that the manual contain the new recodification statutes
- that several manuals be copied and distributed to all public bodies in Nevada

- that the manual start with a short introduction, followed by code of ethical standards and disclosure and abstention should be the second chapter
- that the manual include reference to previous written opinions

Chairman Kosinski then closed this agenda item.

#### Agenda Item 6 – Open session for review of Request for Opinion Log

Chairman Kosinski opened this agenda item and stated that he would like to change the log to make it easier to follow. He then asked Commissioners to provide any suggestions they may have. Hearing no other comments, he then closed this agenda item.

#### Agenda Item 7 – Open session for Chairman's Comments

Chairman Kosinski opened this agenda item to inform the Commissioners of the following items that he would like noted:

- The October meeting has been cancelled, and the next scheduled meeting is November 14, 2007.
- By the November meeting, that Mr. Di Orio will be using that time to get caught up on his investigations.
- Tami will be using that time to complete the ethics manual
- Adriana will be using that time to get partially caught up on written opinions, and caught up by the end of the year.
- He also informed the Commission about a request to the attorney general concerning the requirements of NRS 281.491, subsection 3.
- He asked commissioners to consider the type of notice (i.e. grace period or amnesty) that should be provided to all public officials who have apparently failed to file representation disclosure statements pursuant to NRS 281.491.
- He advised Matt to include in his investigative reports, whether or not the public officer had filed the required ethics acknowledgement form.
- Chairman Kosinski reminded commissioners that beginning in January, all meetings will be held the second Thursday of each month, not the second Wednesday.

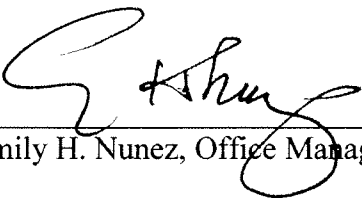
Chairman Kosinski closed this agenda item.

#### Agenda Item 8 – Open session for public comment

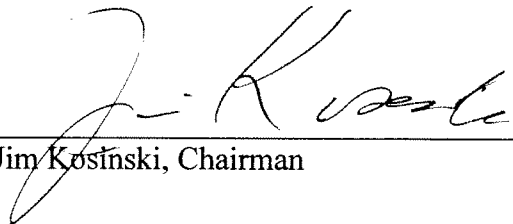
Chairman Kosinski opened the agenda item for public comment. No public comment was made. Chairman Kosinski then proceeded with a farewell to Commissioner Flangas, at which time Commissioner Flangas read into the record a farewell speech to the Commission. Chairman Kosinski closed this agenda item.

Chairman Kosinski adjourned the meeting at 4:25 p.m.

Minutes transcribed by:

  
Emily H. Nunez, Office Manager

Minutes approved November 14, 2007

  
Jim Kosinski, Chairman